

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

CYNTHIA KNIGHT,

Appellant,

v.

**CON-AGRA FOODS, INC. and TREASURER OF THE STATE OF MISSOURI -
CUSTODIAN OF THE SECOND INJURY FUND,**

Respondents.

DOCKET NUMBER WD78591

Date: December 8, 2015

Appeal from:

LABOR AND INDUSTRIAL RELATIONS COMMISSION

Appellate Judges:

Division 4: Alok Ahuja, C.J., P.J., Thomas H. Newton, J. and David M. Byrn, Sp. J.

Attorneys:

Matthew D. Meyerkord, North Kansas City, MO for appellant

Brian R. Herman, Jefferson City, MO for State of Missouri Second Injury Fund; Anton C.
Andersen, Kansas City, KS for Con-Agra Foods

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

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LABOR AND INDUSTRIAL RELATIONS COMMISSION

Cynthia Knight was injured on January 13, 2009, while working for Con-Agra Foods, Inc. at its plant in Marshall when she fell, hit her head, and suffered a concussion.

Knight filed a claim for workers' compensation benefits relating to the January 2009 on August 21, 2013. Con-Agra argued that Knight's workers' compensation claim was untimely, because it was not filed "within two years after the date of injury or death, or the last payment made under this chapter on account of the injury or death," as required by § 287.430, RSMo. Knight responded that her claim was timely because her employer-provided health insurance, administered by Blue Cross/Blue Shield, had made payments for medical treatment "on account of the injury" within two years of the filing of her claim.

Following an evidentiary hearing, an administrative law judge ("ALJ") within the Division of Workers' Compensation determined that Knight's claim was untimely, and denied compensation. The ALJ held that the Blue Cross/Blue Shield payments did not extend the statute of limitations, for two reasons: (1) the medical treatment for which Blue Cross/Blue Shield paid was not related to her January 2009 accident; and (2) the payments were not "made under this chapter" because they were made by Knight's health insurer, not by Con-Agra or its workers' compensation insurer.

On review, the Labor and Industrial Relations Commission adopted the ALJ's decision as its own. Knight appeals.

AFFIRMED.

Division Four holds:

Although the Commission relied on two separate and independent grounds to deny Knight's claim, on appeal Knight challenges only one of those grounds: that the Blue

Cross/Blue Shield payments were not “payments made under this chapter.” Because Knight has failed to challenge each of the grounds on which the Commission relied to find her claim untimely, we have no option but to affirm the Commission’s decision. Even if we were to agree with Knight that the payments made by Blue Cross/Blue Shield were payments “made under this chapter,” this would not alter the result: those payments would still not toll the running of the statute of limitations, because of the Commission’s separate – and unchallenged – determination that the payments were not made “on account of the [January 2009] injury.”

Before: Division 4: Alok Ahuja, C.J., Thomas H. Newton, J. and David M. Byrn, Sp. J.

Opinion by: Alok Ahuja, Chief Judge

December 8, 2015

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